
Interpretation, Jurisdiction, and the Authority of Law

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Can people be autonomous if they are subject to authority? In particular, can they be autonomous if they are subject to the authority of law?

In a series of works that have revolutionized legal philosophy since the 1970s,¹ Joseph Raz has argued that authority includes the capacity to direct people's conduct to the exclusion of considerations that would otherwise be good reasons for action. A tension or conflict between authority and autonomy may seem to result because an autonomous person makes his or her own response to reasons for action. Various critics have concluded that Raz treats people as if they ought to obey authorities blindly when they oughtn't, and as if they generally deferred to the authority of law in particular when they don't.²

In fact, as I understand it, Raz's answer to the general question is that authority can serve autonomy. I will not summarize it; I will point out (in section 1) that the answer is convincing partly because autonomous judgment is needed to determine the jurisdiction of an authority and to determine the exclusionary scope of its directives.

As for the particular question of the authority of law, Raz has said that law claims unlimited authority. I will argue (in section 2) that although law may not acknowledge limits to its authority, it need not claim unlimited authority either. It claims an unspecified jurisdiction, and its directives may have unspecified exclusionary scope. In combination, the points in

section 1 and section 2 answer the specific question—whether people can be autonomous if they are subject to the authority of law. The answer (section 3) is “yes”: laws often violate autonomy, but there is nothing in the nature of law that violates autonomy. But its artificial, systematic nature creates a standing risk that the law of a particular system will do so.

1. Claims to authority do not necessarily violate autonomy

You are twelve years old and you are thirsty, and there is a jug of lemonade in the fridge. Your sister wants it to feed her lilies. It is delicious. We can picture your practical reasoning as a balancing act in which you put considerations that count in favor of drinking the lemonade into one pan of the Balance, and considerations that count against drinking it into the other pan, to see which side swings down:

The Balance of Reasons

Left-hand side [considerations in favor of drinking the lemonade]:	Right-hand side [considerations against drinking the lemonade]:
<ul style="list-style-type: none"> - it will quench your thirst. - it is delicious. 	<ul style="list-style-type: none"> - it will do the lilies good, and they are beautiful. - drinking it will distress your sister, who has her hopes pinned on using the lemonade for the lilies.³

As a general model of practical reason, the Balance would have catastrophic flaws:

- (1) the binary nature of the model is oversimplified because there are often more than two possibilities. Decisions about, e.g., what to do when you grow up, or what to do after lunch, seldom present a binary choice.
- (2) Practical decisions are often made in conditions of more or less uncertainty (as to the likelihood of future contingencies, or as to availability of alternatives), so that the decision maker may not know what weights to put into each side.
- (3) The metaphor of weights and a balance misrepresents the considerations relevant to many decisions because there is often no metric. The beauty of the lilies, for example, is incommensurable (there is no precise answer to the question, how beautiful are the lilies?). And considerations that do lend themselves to measurement (e.g., the salary and the working hours of two available jobs) may be incommensurable with each other.

So the Balance is not a general model of practical reason. It is actually *because* of its artificial structure that the Balance is useful as a model for the artificial, simplifying role of authorities in practical reasoning. Consider the effect of a directive from the paradigm case of an authority: a parent.

Suppose that your mother comes into the kitchen and says, “leave the lemonade for your sister.” What effect should that have on your practical reasoning? Consider two possibilities:

Your mother has given you new weights to put into the right-hand side of the Balance. For example, if you drink the lemonade, her feelings will be hurt, and she may do something unpleasant to you. After your mother’s command, there is more weight on the right than there was before.

Your mother’s command goes into the right-hand side of the Balance and gives you a reason to take weights out of the left-hand side (that is, a reason not to count the undoubted weight that they would have if you put them in the Balance). The scale swings down on the right.

If you treat your mother’s command in the second way, you treat it as what Raz calls a “protected reason”⁴: a complex that includes a reason not to drink the lemonade, and a second-order, “exclusionary” reason not to act on other reasons. In Raz’s view, an authority has the capacity to give the subject protected reasons for action, and not just the opportunity to add reasons that are to be weighed in the Balance.

Suppose that you reason as follows: “On the one hand it would be nice to drink the lemonade, but on the other hand mom’s feelings matter, and since the lemonade is not so delicious that it outweighs that consideration in combination with the other considerations against drinking the lemonade, I’ll do what she said to do.” You would not be obeying your mother—you would be humoring her. If you explained your reasoning to her, the humoring would defeat itself and you would merely provoke her. Of course, your mother might say, “humor me and don’t drink the lemonade,” or “consider my feelings.” But that is not what she says when she just says, “leave the lemonade for your sister.” When she says *that*, she is claiming your obedience. She is presenting

a course of action to you as a conclusion for your practical reasoning, without regard to the weight of reasons that might (otherwise) go into the left-hand side. The implicature of what she says is that you are to remove weights from the left-hand side of the Balance. For you cannot act in a way that responds to their weight if you accept her capacity to direct you not to drink the lemonade.

Is authority, understood in this way, compatible with autonomy? You may say that the parent-child relationship in the paradigm example of authority shows that authority and autonomy are incompatible. The child is not fully autonomous because of two interconnected aspects of the authority relationship, which I will call the mother’s “jurisdiction,” and the “scope” of her directive.

Jurisdiction: The mother’s capacity to exclude considerations that would otherwise be genuinely relevant is a standing negation of autonomy.

Scope: A particular directive specifically detracts from autonomy by excluding relevant considerations.

The jurisdiction of an authority determines not only whom it can address and what actions it can direct, but also what considerations it can exclude. The scope of a directive is the set of considerations that a particular directive excludes. If an authority had unlimited jurisdiction, and if the scope of its directives were unlimited, then a person subject to the authority would have no autonomy (except what the authority chooses to leave to him or her). If a directive excluded all considerations, then it would deny the subject’s autonomy within the directive’s range of application.

In fact, neither an authority’s jurisdiction nor the scope of a directive need be universal in these ways. I believe that it only seems that authority necessarily violates autonomy if we exaggerate the generality of one feature, or of both.

Scope and interpretation

Suppose that your mother tells you to stay in the house while she goes to the grocery store. Just as she disappears down the road, the house bursts into flames. If her directive excludes other considerations, does that mean that you must stay in the house, in order to recognize your mother as an authority? Not necessarily, according to Raz: “It should be remembered that exclusionary reasons may vary in scope; they may exclude all or only some of the reasons which apply to certain practical problems.”⁵

How can you tell what her directive excludes? Since she is the authority, it seems that she gets to decide what considerations to exclude. She could have said, “don’t go out to play with Steve,” or “don’t go out just because your sister tells you to,” and then she would be telling you what considerations she is excluding. But she simply told you, “stay in the house.”

Why not say this: by telling you to stay in the house, she purported to present a conclusion for your practical reasoning; so her directive excludes whatever must be excluded in order to necessitate that conclusion. Therefore it excludes *all* considerations in favor of leaving the house. For you cannot be responsive to considerations in favor of leaving the house if you must reach the conclusion that you are not to leave the house. She purported to give you a conclusive reason.

The house-on-fire situation reduces that view to absurdity. It is absurd to treat the directive in a way would turn the authority’s directive against her. Instead of treating her directive as a way of accomplishing the purposes for which she has authority, it would make her authoritative act into a potential disaster. Treating authorities generally in that way would involve a commitment to radical misinterpretation of your mother’s directives—an interpretation that is actually repugnant to her authority over you.

When the house is on fire, how should you interpret your mother’s directive? The interpretative question is not what she said, or what she intended (she most likely had no intention of the issue you face in the burning house). The interpretative question is what to make of the fact that she directed you to stay in the house. You need to work out the effect of what she did. Of course, what she did was to exercise authority over you; so the interpretation needed to answer more specific questions (including your specific question of what considerations she excluded) is to be answered in a way that does not frustrate the purposes for which she exercises authority over you.⁶ If you can presume that her purpose was to exercise authority for the reasons that justify it, then you will misinterpret her communicative act if you treat her directive as excluding the consideration that you will perish in the fire if you do what she said to do. So that consideration is *not excluded*; you ought to put it in the side of the Balance in favor of fleeing from the house, and it is heavy enough that the Balance will presumably swing down in that direction.

This interpretative approach supports your mother’s authority. She cannot perform the service that authorities provide if she cannot exclude considerations from the Balance; she cannot perform it effectively if she cannot generalize without running the risk that you will treat her directives as excluding all considerations. The approach potentially gives rise to very difficult borderline cases in various situations: you cannot depart from what she said to do merely because you can see that if she hadn’t told you to stay in, there would be good reason to go out. You need to defer to her view as to what counts as good reason to go out if you are to treat her as an authority; but that does not mean that her directive requires you to stay in the house when you can see—in spite of the fact that you are not the authority—that it would be contrary to the

purposes of the authority to view the emergency consideration as an excluded reason.

If you treated her directives as conclusive guides to your practical reasoning, rather than exclusionary guides, then in order to issue any directive responsibly your mother would need to codify your obligations under a set of contingencies that she cannot catalogue (in fact, under the set of all relevant contingencies including those that are unforeseeable).⁷

Jurisdiction

Now suppose that your mother deliberately excluded the emergency consideration. Suppose that she said, “stay in the house even if you burn to death.”⁸ She has acted outside her jurisdiction. She has claimed authority to exclude a consideration that she has no authority to exclude.

What considerations can your mother authoritatively exclude? It is a question of the justification of authority. So Raz’s “normal justification thesis” offers a criterion for jurisdiction: it is that the subject can “better conform to reasons that apply to him anyway” by using the authority’s directives as a guide.⁹ This formulation makes room for mistakes by authorities: justifiable deference to authority does not require that the subject can see that the authority has used its power well. But if the subject—with awareness of the decision-making advantages of the authority that call for deference—can see that a directive is an abuse of power, then the subject can see that it is made without jurisdiction.

A mother’s jurisdiction over her children is typically very broad. She can validly direct a wide range of conduct, and her directives can exclude a wide range of considerations that would otherwise be relevant to the child’s decisions. Extremely general jurisdictions really do reduce the subject’s autonomy. You may better conform to reasons that apply to you if you do as your mother says, even if it seems that she is telling you the wrong thing. Yet it is possible to imagine circumstances in which a twelve-year-old can see that obedience to a particular directive is not justified by the normal justification thesis, or in any way.

But it is dangerous to generalize about the jurisdiction of authorities. We cannot even say generally that an authority cannot exclude emergency considerations. An authority has good reason to take such considerations out of the hands of subjects if the subjects will conform to reason better if they do not act on such considerations.¹⁰

Yet I think we can say generally that an authority has the widest jurisdiction for which the normal justification thesis is satisfied. If the normal justification thesis is *only* satisfied, as regards your mother’s authority toward you, in respect of the household chores, then that is the extent of her jurisdiction. But if you would more closely conform to the reasons you have by treating her as having a wider jurisdiction, then you had better do so.

There is, of course, a relation between the interpretation of a particular directive and the authority’s jurisdiction. A limit on jurisdiction is a ground of interpretation of an unspecific directive. Your mother would not have authority to tell you to stay inside the burning house; so her directive to stay in the house is best interpreted as not applying in that case. The principle that authorities are to be presumed to act within their jurisdiction is a standard legal technique *because* it is a generally sound maxim of interpretation of authorities.

A summary on authority in general

There is a sense in which if one accepts the legitimacy of an authority one is committed to following it blindly. One can be very watchful that it shall not

overstep its authority and be sensitive to the presence of non-excluded considerations. But barring these possibilities, one is to follow the authority regardless of one's views of the merits of the case (that is, blindly). (AL 24)

The mediating role of authority cannot be carried out if its subjects do not guide their actions by its instructions instead of by the reasons on which they are supposed to depend. No blind obedience to authority is here implied. Acceptance of authority has to be justified, and this normally means meeting the conditions set in the justification thesis. ("Authority, Law, and Morality," in *Ethics in the Public Domain*, 1994 at 199).

Which is it? Both, in a sense. The lemonade is delicious, and if you treat that consideration as excluded by your mother's directive, then you are acting as if you were blind to that consideration. But you need not be acting as if you were blind to reason. You may be using the service that the authority purports to offer in order to conform to reason. So subjection to authority need not, on Raz's account, amount to abandoning your autonomy. The subjects of an authoritative directive may (and must, too, if they are to justify action in compliance with a directive) assess:

1. whether the source of the directive has legitimate authority
2. the authority's jurisdiction (and of whether the directive is within that jurisdiction)
3. the scope of the directive (i.e., the range of reasons excluded by the directive)
4. the import of any unexcluded reasons (and how to resolve any conflict between them and the directive)
5. whether an exclusionary reason is defeated by another second-order reason.

It may take a complex exercise in evaluative and normative reasoning to justify obedience to a claim of authority. And if you conclude that a consideration is validly excluded by authority, you can keep on *thinking* about it. Your mother's command is not a reason not to think about how delicious lemonade is; it is a reason not to act on that consideration.¹¹

These features of Raz's theory are only background to understanding the relation between authority and autonomy. They help to see how obedience to an authority can be compatible with human autonomy. But a full understanding of that compatibility needs more: it needs the insight that "autonomy is valuable only if exercised in pursuit of the good."¹² And it needs the crucial feature of the service conception: that a person can use a service provided by an authority in his or her own pursuit of the good.¹³ Accepting authority can diminish autonomy; it can also be an exercise of autonomy.

Children (even twelve-year-olds) are not fully autonomous. It would be a mistake to think that people suddenly become fully autonomous at the age of majority, or ever. But twelve-year-olds do generally lack aspects of autonomy that thirty-year-olds generally have. This relative lack of autonomy is not a consequence of the mere fact that they are subject to authority. Instead, it reflects and is reflected in the breadth of their parents' jurisdiction over them. Neither children nor adults lack autonomy merely in virtue of subjection to authority. Insofar as an authority provides the service that Raz describes, deference to the authority can be an exercise of autonomy. It is so if the subject exercises judgment as to the authority's jurisdiction, and as to the scope of the directive, and as to the effect of unexcluded considerations.

But does *law* claim an authority that is incompatible with autonomy?

2. Law does not necessarily claim unlimited authority

The law is not your mom, and it may have far less concern for your autonomy than she does. It is impersonal, general, systematic, and violent. Does law necessarily violate autonomy? What is *law* claiming when it claims authority? It may seem that it claims not simply exclusionary force but a form of supremacy over our lives that is incompatible with our autonomy.

"Every legal system claims authority," Raz says.¹⁴ It is a figurative statement. I think it is a mistake (made more than once by leading writers¹⁵) to think that the figure is a personification. The figure is a metonymy (because it is legal authorities, not the law that claim authority) for an implicature (legal authorities do not generally state the claim; their conduct presupposes the soundness of the claim). How does the implicature arise? *Not* merely because law controls society, or because it requires this or that form of behavior. Anyone capable of threatening you is capable of directing you to do this or that, and capable of threatening this or that response to non-compliance with its directives. H.L.A. Hart pointed out the importance of distinguishing (in a way that he thought Bentham could not do) between directing behavior by threats of pain, and directing behavior by making rules that impose obligations.¹⁶ Both the gunman and the lawmaker purport to direct your behavior by giving you reasons; only the lawmaker purports to impose obligations. In Raz's terms, the gunman only purports to give you an extremely weighty reason that you had better put into one side of the Balance; the lawmaker purports to give you protected reasons.

All legal systems purport not only to require or to prohibit conduct but to regulate the life of a community—to impose a normative order. They characterize some forms of behavior that they prohibit as *offences*, and they characterize requirements as *obligations*, and imposes as *taxes*, and their responses to prohibited conduct as *penalties* or *remedies*. Those normative characterizations are good if and only if the prohibitions and requirements and imposts and responses to conduct are prescribed as offences and obligations and taxes and penalties and remedies by a legitimate authority acting within its jurisdiction. So it seems to me to be an important insight that law claims authority; it is not a truism but an interpretation of a nearly universal technique for the ordering of complex societies.

According to Raz, law's claim to authority includes an answer to the questions of jurisdiction and scope: law claims unlimited jurisdiction,¹⁷ and its directives exclude all reasons that it does not recognize.¹⁸ I will argue that these two propositions generalize too far. Law *is* like your mother in this respect: it claims an unspecified jurisdiction, and legal directives often have an unspecific exclusionary force.

The jurisdiction of a legal system

It may seem absurd to speak of the jurisdiction of a legal system when, in the legal sense, "jurisdiction" is something conferred by law—so that it seems, as Raz claims, that law claims unlimited authority. It is true that legal systems do not generally set limits to their own jurisdiction. Yet a legal system need not claim that there are *or* that there are not any limits to its authority.¹⁹

I say that the jurisdiction that law claims is unspecific because law implicitly claims the jurisdiction needed for its purposes, and it does not give a general statement of its purposes. Its claim to jurisdiction is, of course, universal within the class of mandatory norms purportedly created by the authorities of the system acting within their particular lawful

jurisdictions. And it is needless to say that the making of laws in any system suggests a claim to a wider jurisdiction than just to make those laws. But legal authorities do not typically say that they have unlimited authority, or do anything that implies such a claim.

Why does Raz say that law claims unlimited authority? He rightly points out that legal systems

do not acknowledge any limitation of the spheres of behaviour which they claim authority to regulate. If legal systems are established for a definite purpose it is a purpose which does not entail a limitation over their claimed scope of competence.²⁰

But these truths do not mean that legal systems claim that there is no limitation on the spheres of behavior they claim to regulate. The purposes for which legal systems are established entail neither that there is a limitation to their claimed scope of competence nor that there is no limitation.

Or again, Raz points out that “the law provides ways of changing the law and of adopting any law whatsoever, and it always claims authority for itself.”²¹ Granted that every legal system provides ways of changing the law, and claims authority for itself, that does not entail that it claims to have unlimited authority.

Compare mothers. They characteristically claim authority over their children. Do they claim unlimited jurisdiction? They claim much more far-reaching jurisdiction to regulate their children’s lives than any legal system claims. Unlike the rule of law, the rule of a mother does not generally involve rule-governed techniques for adoption of new norms. But mothers certainly have a technique for creating new norms, and they do not necessarily admit or deny that any other authority (including legal authorities) has jurisdiction over them. They do not necessarily acknowledge any limitation of the spheres of behavior that they claim authority to regulate. A mother’s authority is for the good of the child—and for various other goods, such as the good of their relationship, and the good of the rest of the family, and doubtless the protection of others. None of the values that ground her authority would justify her in claiming unlimited jurisdiction. She may make unjustifiable claims, of course. But in order to carry out her role in your life as a mother, she need only claim the authority that is needed for the purposes of a mother.

There need be nothing in the behavior of a mother that implies a claim to unlimited authority, and in this respect legal systems are similar. They do not (at least, they do not necessarily) acknowledge any limit on their jurisdiction, but that does not mean that they claim that there is no limit to it. The law of England does not generally regulate thoughts, or table manners, or the rules of *Parcheesi*. It has not renounced authority to do so, but it does not claim authority to do so, either.

This view is compatible with Raz’s insight that “the law presents itself as a body of authoritative standards and requires all those to whom they apply to acknowledge their authority” (AL 33). And it is compatible with his view that political authorities tend to have far less authority than they claim. A legal system presents all its mandatory norms as protected reasons, but it does not claim the authority to give just any directive, or (I will argue) to exclude every consideration that it does not recognize.

Interpretation, and the scope of legal directives

Legal rules do not exclude all considerations. As Raz points out, they often state the considerations they do or do not exclude. But I do not think that they exclude every consideration that is not legally recognized.

Suppose that the law imposes a curfew, requiring you to stay in your house at night. During the night, your house bursts into flames. You run outside and you are prosecuted for the offense of breaking the curfew. The regulation creating the offense says nothing of any defense, and the tribunals that apply the regulation have never faced such a case before. There is no legal source for any defense. You may say that you have committed an offense, but a good court will change the law by creating a new defense (recognizing the sort of emergency you faced as a consideration that is not excluded), and apply the new law retrospectively in your case. It is true that a good court will sometimes retroactively change the law,²³ but in this situation the court may have no reason to conclude that you have committed an offense.

The conclusion that you committed an offense might involve a misinterpretation of the law.²⁴ The court may need to change the law only by acting on a good interpretation of the curfew law that had not been authoritatively given before. The interpretative question is what to make of the fact that the authorities directed you to stay in the house. The court needs to work out the effect of that authoritative act. The question of the effect of the directive is to be answered in a way that does not frustrate the purposes for which the institution that made the curfew exercises authority over you. The law empowers the court to decide those purposes; there is no general reason to think that, when it prohibits a form of conduct without qualification, the law’s purposes exclude all considerations that have not been legally recognized as non-excluded. And a recent remark by Raz suggests that he takes that view: “authoritative directives preempt...conflicting reasons, not all conflicting reasons, but those that the lawmaker was meant to consider before issuing the directive.”²⁵ Just as a limit on your mother’s jurisdiction is a ground of interpretation of an unspecific directive from her, a lawmaker’s jurisdiction provides a guide to what it is that a legal directive excludes.

Legal directives do not generally purport to exclude all considerations that are not legally recognized any more than your mother’s directive to you to stay in the house excludes all considerations that she has not recognized. What law necessarily does is to empower institutions to determine the jurisdiction of its institutions and the scope of its own norms.

3. Laws do not necessarily violate autonomy

To carry out the functions that make it what it is, law needn’t regulate thoughts, or table manners, or the rules of *Parcheesi*. And, therefore, it needn’t claim jurisdiction to regulate them. Legal authorities are political authorities and need claim no more than political authority.

In section 1, I argued that one aspect of the compatibility of authority and autonomy is that it is, in a sense, the responsibility of the subject of an authority to decide the extent of an authority’s jurisdiction and the scope of a particular directive. As Raz has recently put it, “in following authority...one’s ultimate self-reliance is preserved, for it is one’s own judgment which directs one to recognize the authority of another.”²⁶ The subject may have to exercise such judgment concerning the problems of jurisdiction and of scope that I have addressed. But what then? Both issues can be controversial and the power to determine an answer to them can be very significant, and authorities need to be able to respond to wayward or rebellious or mistaken decisions.

Like your mother, law must exert control over its own jurisdiction and the scope of its own directives if it is to fulfill its functions. But unlike your mother, it must regulate the ways in which it carries out that responsibility. Your mother only needs wisdom and self-control; she has the opportunity to respond

to you with unregulated compassion. By the same token, her position gives her the opportunity to act arbitrarily.

In a legal system, the analogous forms of arbitrariness would be intolerable: they would violate the requirements of the rule of law. The law needs rule-governed techniques for controlling its own jurisdiction and the scope of its directives. And the artificiality of those techniques creates a risk to autonomy. If the community is to be ruled by law, jurisdiction and scope cannot merely be left to subjects, of course. They cannot be left to the unfettered discretion of tribunals, either. The resultant cumbersome separation of legislative and adjudicative functions²⁷ means that legal institutions cannot be as sprightly as your mother can in distinguishing a departure from a directive that reflects a rejection of authority from a departure from a directive that supports the authority. The system cannot trust the tribunal with complete freedom to identify the considerations that are not excluded by a legal norm. That feature of the rule of law tends (but it is only a tendency) to make it difficult for a court to apply the law faithfully in disputed matters.

Questioning authority is compatible with acknowledging authority. Raz's theory of authority does not lead to the conclusion that authority necessarily violates autonomy (though authorities often do so). It does not lead to the conclusion that the authority of *law* necessarily violates autonomy, either; to make that clear, I think it is important to see that law does not claim unlimited jurisdiction and does 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 directives.²⁸

Ironically, the risk arises from requirements that are calculated to protect the autonomy of persons from arbitrary use of power.

Endnotes

1. Joseph Raz. *The Authority of Law* (1979) ['AL']; *Practical Reason and Norms*, 2nd ed. (1990) ['PRN']; *The Morality of Freedom* (1986) ['MF']; "Authority, Law, and Morality," in *Ethics in the Public Domain* (1994) ['EPD']; "Reasoning with Rules," *Current Legal Problems* 54 (2001): 1-18; "The Problem of Authority: Revisiting the Service Conception," *Minnesota Law Review* 90 (2006): 1003 ["Revisiting the Service Conception"].
2. So, for example, Ronald Dworkin has concluded that Raz's account of authority presupposes "a degree of deference toward legal authority that almost no one shows in modern democracies." Dworkin, *Justice in Robes* (Harvard University Press, 2006), 206; twenty years earlier, he had written in response to Raz's work, "...why must law be blind authority rather than authoritative in the more relaxed way other conceptions assume?" *Law's Empire* (Harvard University Press, 1986), 429.
3. I am actually abstracting from complex considerations that can give you a reason not to distress someone; but then I am even abstracting from the simpler considerations that can give you a reason to quench your thirst.
4. See, e.g., "Reasoning with Rules," above n.2, at 14.
5. PRN 40.
6. I think that this follows from the general conversational maxim that a person who communicates with you is not to be taken to frustrate the point of doing so.
7. You might say that the scope of a directive is not unlimited because of a counterfactual: if you had her with you, your mother would say that it is o.k. to run out of the house. That is true, but the point does not need to be put in counterfactual terms: the counterfactual is true for a combination of (1) the same reason that a good interpretation of her actual directive yields the conclusion that the emergency consideration is

not excluded, and (2) the fact that your mother is (at least somewhat) reasonable.

8. It would not actually be enough that she said it; you would need reason to take her as meaning what she says.
9. "Revisiting the Service Conception" at 1014.
10. Above, I presupposed that there is no such reason for a mother to require a twelve-year-old not to act on the consideration that the house is on fire. Heroes in war movies are commonly subject to directives that purport to exclude emergency considerations. It may be a special feature of war movies that it is appropriate for the subject to disregard directives that do so; it is not a general feature of practical reason.
11. Raz points this out at MF 42 and elsewhere.
12. MF 381.
13. Incidentally, associated with that feature, it needs what Raz calls the "independence condition": it is a condition for the normal justification thesis being satisfied that "it is better to conform to reason than to decide for oneself, unaided by authority." "Revisiting the Service Conception" at 1014.
14. AL v.
15. E.g., by Ronald Dworkin, *Justice in Robes* (Harvard University Press, 2006), 206. In "Law's Aim in Law's Empire" (in *Exploring Law's Empire*, edited by Scott Hershovitz, 2006), John Gardner suggests a way of understanding Raz's view about what law claims, which is similar to the view that I offer below.
16. But Hart rejected the idea that law claims authority in Raz's sense, viewing laws as rules validated—in an obscure sense—by the propensities and attitudes of a community. See, e.g., *Essays on Bentham* (1982) at 158-60.
17. Every legal system claims "authority to regulate any type of behaviour" (AL 116, PRN 150-1); and law "...claims unlimited authority...it claims that there is an obligation to obey it whatever its content may be," MF 77.
18. AL 33: "what is excluded by a rule of law is not all other reasons, but merely all those other reasons which are themselves not legally recognized."
19. The limits that many decent legal systems set on the authority of their institutions (including executive, judicial, and legislative agencies) are not limits on the authority that the law claims for itself because they are themselves set by law (as Raz points out: MF 76).
20. PRN 150-51.
21. MF 77.
22. An analogous question arises in the debate over the nature of the sovereignty accorded in English law to acts of Parliament at Westminster: Does the rule give Parliament unlimited jurisdiction? Many textbook writers have said that Parliament can make any law. But there is no authority in English law for that interpretation of the rule. There *is* authority for the rule that Parliament can make law, and the law confers no power on any institution to override an act of Parliament.
23. See Endicott, "Adjudication and the Law" [Forthcoming, *Oxford Journal of Legal Studies*, 2007].
24. We can't say that it *would* do so; it will depend on the facts of legal practice and doctrine in your legal system.
25. "Revisiting the Service Conception" at 1022.
26. "The Problem of Authority," above, n.2, at 1018.
27. Between different institutions, or even in common law courts that make law, between different panels of the same tribunal across time.
28. The risk of official viciousness is much worse; but the risk arising from artificial techniques one reflects the systematic nature of law, whereas the risk of viciousness only reflects common traits of political authorities.