

2014

Raz on the Right to Autonomy

Nicole Hassoun

Binghamton University--SUNY, nhassoun@binghamton.edu

Follow this and additional works at: https://orb.binghamton.edu/philosophy_fac



Part of the [Philosophy Commons](#)

Recommended Citation

Hassoun, Nicole, "Raz on the Right to Autonomy" (2014). *Philosophy Faculty Scholarship*. 13.
https://orb.binghamton.edu/philosophy_fac/13

This Article is brought to you for free and open access by the Philosophy at The Open Repository @ Binghamton (The ORB). It has been accepted for inclusion in Philosophy Faculty Scholarship by an authorized administrator of The Open Repository @ Binghamton (The ORB). For more information, please contact ORB@binghamton.edu.

Raz on the Right to Autonomy

N. Hassounⁱ

Abstract:

In *The Morality of Freedom*, Joseph Raz argues against a right to autonomy. This argument helps to distinguish his theory from his competitors'. For, many liberal theories ground such a right and some even start from an autonomy-based account of rights. This paper suggests that Raz's argument raises an important dilemma for his larger theory. Unless his account of rights is limited in some way, Raz's argument applies against almost all (purported) rights, not just a right to autonomy. But, on the traditional way of limiting accounts like his, Raz's account actually supports the conclusion that people have a right to autonomy. So, unless there is another way of limiting his account that does not have this consequence, Raz's argument against a right to autonomy does not go through.

Raz on the Right to Autonomy

I. Introduction

In *The Morality of Freedom*, Joseph Raz argues against a right to autonomy. This argument helps to distinguish his theory from his competitors'. For, many liberal theories ground such a right.ⁱⁱ Some even defend an entirely autonomy-based account of rights.ⁱⁱⁱ This paper suggests, however, that Raz's argument raises an important dilemma for his larger theory. Unless his account of rights is limited in some way, Raz's argument applies against almost all (purported) rights, not just a right to autonomy. If Raz's account is limited in the traditional way, however, it is not clear that his objection to a right to autonomy goes through. So, unless there is another way of limiting his account that does not have this consequence, Raz's argument against a right to autonomy should be rejected.^{iv} Section II sketches Raz's account of autonomy. Section III considers his argument for the conclusion that people lack a right to autonomy. Section IV critiques this argument. Section V concludes.

II. Autonomy

Autonomy is often equated with individuality, freedom of the will, integrity, independence, self-knowledge, responsibility, freedom from obligation, self-assertion, critical reflection, and absence of external causation.^v Despite their diversity, most accounts of autonomy have this in common: People must freely shape their lives.^{vi} As Raz puts it:

If a person is to be maker or author of his own life then he must have the mental abilities to form intentions of a sufficiently complex kind, and plan their execution. These include minimum rationality, the ability to comprehend the means required to realize his goals, the mental faculties

necessary to plan actions, etc. For a person to enjoy an autonomous life he must actually use these faculties to choose what life to have. There must in other words be adequate options available for him to choose from. Finally, his choice must be free from coercion and manipulation by others, he must be independent.^{vii}

In other words, to secure autonomy, people must be able to reason about, make and carry out some simple and some significant plans on the basis of their beliefs, values, desires, and goals (henceforth *commitments*). They must also have good options from which to choose and be free from coercion and manipulation. Let us consider each of these conditions for autonomy in turn.

First, what does it mean to say that one must be able to reason on the basis of one's commitments? The idea is just this: Autonomous people must have some instrumental reasoning ability. Some hold much more demanding conceptions of rationality on which saying that autonomy requires the ability to reason would be controversial. Kant, for instance, thinks that reason requires each of us to acknowledge the categorical imperative as unconditionally required.^{viii} The rationality component of autonomy at issue does not require this much, however. People need only have the ability to do some instrumental reasoning.

Next, consider what it means to say that one must be able to make some significant plans on the basis of one's commitments. To make significant plans one need not plan one's whole life or every detail of one's day. Rather, one must be able to navigate through one's day with ease and make general plans for the future. One must not be, like Raz's proverbial man in a pit or hounded woman, limited to making plans only about how to meet one's needs.^{ix} Though one might not choose to exercise this ability, one must have the planning ability necessary to pursue the projects one values; to pursue

a good life as one sees it. This ability requires a kind of internal freedom. Internal freedom is roughly the capacity to decide “for oneself what is worth doing,” one must be able to make “the decisions of a normative agent”; to recognize and respond to value as one sees it.^x One must be able to form some simple and significant plans that would work if implemented. One must be able to make some simple and significant plans that one could carry through if free from external constraint.^{xi}

To carry out some simple and significant plans one must have some external as well as internal freedom.^{xii} External freedom, or liberty, is roughly freedom from interference to pursue a “worthwhile life.”^{xiii} A woman who can think for herself may have internal freedom even if she lacks external freedom because she is imprisoned. To carry out some simple and significant plans one must have enough freedom from coercion and constraint to carry out those actions necessary to bring some valuable plans to fruition. The importance of the qualifier *some* is just this: One need not be able to carry out every valuable plan that one might want to carry out to have this component of autonomy. Still, the ability to carry out *some* simple and significant plans is a necessary component of this kind of autonomy.

The idea that people must be able to reason about, make and carry out both some simple and some significant plans free from coercion and constraint is tied to the idea that they must have good options. Variety matters as well as number. People must be able to “exercise all the capacities human beings have an innate drive to exercise, as well as to decline to develop any of them.”^{xiv} They must be able to move bodies, sense the world, use their imagination and affection, and occupy their minds. People lack good options if all of their choices are dictated by others or circumstances. They must not be paralyzed or

chained, coerced, or manipulated. Their decisions must not be determined beforehand by the dictate to maintain their lives. A singer threatened with the loss of her voice if she does anything another dislikes, for instance, is not autonomous. All of one's options cannot have horrendous effects. On the other hand, one's acting on one's significant options must at least sometimes have significant effects. If one fails in everything one tries to accomplish, one is not autonomous. Though, one need not fully realize one's valuable capacities to be autonomous, one must be able to choose or reject self-realization.

Raz also says that to have good options people must have many *collective* goods, goods that are inherently public (i.e. non-contingently non-excludable).^{xv} The provision of such goods requires others to bear "potentially burdensome duties, regarding fundamental aspects of their lives."^{xvi} He suggests that "autonomy is possible only if various collective goods are available."^{xvii}

The opportunity to form a family of one kind or another, to forge friendships, to pursue many of the skills, professions and occupations, to enjoy fiction, poetry, and the arts, to engage in many of the common leisure activities: these and others require an appropriate common culture to make them possible and valuable.^{xviii}

Raz argues, however, that autonomy "can be pursued in different societies which vary considerably in the other aspects of the pursuits and opportunities which they afford their members."^{xix}

Autonomy is, to be sure, inconsistent with various alternative forms of valuable lives. It cannot be obtained within societies which support social forms which do not leave enough room for individual choice. But it is compatible with any valuable set of social forms which conforms with the general conditions specified above.^{xx}

It is not entirely clear what Raz intends to indicate by “general conditions.”^{xxi} He probably means “any valuable set of social forms” which support the capacities for autonomy sketched above by, for example, providing the requisite collective goods.^{xxii} It is clear that Raz thinks societies can be structured in many different ways and still provide their members with good options. Good options require good social structures, but there are many good social structures that can provide these options.

III. Raz’s Argument Against a Right to Autonomy

Raz believes that people do not have a right to autonomy. This does not mean there are no rights grounded in the interest in leading an autonomous life. Rather, he holds that there is no right to autonomy simpliciter. Raz believes only some of the duties we have to protect autonomy are grounded in rights. He thinks there are reasons to protect individuals’ interests in living autonomously that are not rights-based; rights-based duties do not exhaust the range of duties grounded in autonomy.

Raz believes the conclusion that our reasons for protecting autonomy are not fully grounded in a set of rights-based duties demonstrates that liberalism cannot be grounded entirely in a rights-based morality. This is significant since Ronald Dworkin, John Mackie, and others have suggested that political morality might be “rights-based.”^{xxiii} Raz thinks rights do not have such a foundational role in morality.

This paper will not question Raz’s larger conclusion that liberalism cannot be grounded entirely in a rights-based morality. Rather, its primary aim is to question Raz’s claim that there is no right to autonomy. It will argue that, on the most plausible way of constraining Raz’s account, people only have rights to standard protections of autonomy.

If Raz's account is constrained in this way, however, Raz provides no objection to the conclusion that there is a right to autonomy.

Perhaps this paper's argument can be extended to undercut Raz's larger conclusion. For, one could argue in a similar way that we only have duties to provide standard protections of others' interests and, on the standard way of constraining Raz's account of rights, rights provide exactly these protections. It might follow that rights are the appropriate foundation for liberalism. Perhaps this argument merits further exploration.

The claim that there is no right to autonomy is significant, however, whether or not Raz's larger conclusion about the role of rights in morality is correct. For, authors like James Griffin have recently tried to give accounts of rights grounded entirely in agency (which is akin to what Raz calls autonomy).^{xxiv} On such account people have a right to everything which protects autonomy. So whether or not Raz's argument against a right to autonomy goes through is significant on its own. In any case, this paper will just consider this component of his larger argument.

Raz's argument against a right to autonomy starts from his account of rights. On Raz's account, "'X has a right' if and only if X can have rights, and, other things being equal, an aspect of X's well-being (his interest) is a sufficient reason for holding some other person(s) to be under a duty."^{xxv} Then, Raz says:

A right to autonomy can be had only if the interest of the right-holder justified holding members of the society at large to be duty-bound to him to provide him with the social environment necessary to give him a chance to have an autonomous life. Assuming that the interest of one person cannot justify holding so many to be subject to potentially burdensome duties, regarding such fundamental aspects of their lives, it follows that there is no right to personal autonomy.^{xxvi}

Or, to “put it another way: a person may be denied the chance to have an autonomous life, through the working of social institutions and by individual action, without any of his rights being overridden or violated.”^{xxvii} Raz believes people do not have rights-based duties to provide all of the collective goods necessary for autonomy, though these goods are intrinsically valuable. For, more generally, Raz seems to think people do not have rights with potentially burdensome correlative duties to provide collective goods.^{xxviii}

Raz considers one objection to his argument against a right to autonomy. Namely, that it is implausible to think that all rights must be justified by right-holders’ interests, “the value placed on that interest may derive from its usefulness to others.”^{xxix} That is an individual may have a right not because having that right protects that individual but because having that right protects other individuals. On this view, the right of a journalist to free speech might be grounded in part in the interests of others in living in a liberal democracy protected by this right. Even if the journalist did not have an interest in speaking freely, others have an interest in her having a right to such speech.

To put the objection another way, one might reject Raz’s argument by rejecting the idea that rights are justified by right-holders’ interests. For, one could argue that the distinction between a right being “justified by the service it does to the interest of the right-holder” and “the value placed on that interest” deriving “from its usefulness to others” is too fine.^{xxx} If individuals’ interests are inextricably intertwined, it may make little sense to justify rights only in terms of individual interests. Does it make sense to say that a parent has a right to food only because of the parent’s interest in food but not because the parent will be better able to care for her child if the parent is well-nourished? It might not if the parent has an interest in her child’s welfare.

Raz rejects this move. He believes the distinction between a right being “justified by the service it does to the interest of the right-holder” and “the value placed on that interest” deriving “from its usefulness to others” is necessary.^{xxxii} He says:

Consider the consequences of dispensing with it. Dispensing with it would mean, for example, that each member of a nation has a right to the self-determination of the nation. It is his personal right. It would also mean that as each of us has an interest in an environment in which promises are kept and people do not deceive each other, I, as well as everyone else, have a right that you shall keep your promises and that you shall not deceive other people.^{xxxiii}

Raz says we should not reject the idea that rights must be justified by right-holders’ interests. So he concludes that there is no right to autonomy because individuals’ interests in autonomy cannot justify the imposition of duties correlative to such a right. Again, Raz’s conclusion is not that there is no duty to protect autonomy. Rather, it is that there is no rights-based duty to protect autonomy.

IV. Rejecting Raz’s Argument Against a Right to Autonomy

There are a few quick responses to Raz’s argument. One might, for instance, adopt a line Jeremy Waldron advocates.^{xxxiii} Waldron suggests that the duties correlative to individual rights may not individually be strong enough to require anyone to attempt institutional reform. Collectively, however, he says these duties may be strong enough that some individuals must try to bring about such reform. This does not mean that the duty bearers owe the attempt to bring about reform to a collectivity (society or humanity). Nor does this mean the duty bearers owe the attempt to bring about reform to other individuals besides the rights holders. Rather, this idea is compatible with all rights being grounded in rights-holder’s interests. Though, individuals would have some rights to collective goods.

Even setting these points aside, however, Raz's argument against a right to autonomy faces an important dilemma. On the one hand, unless his account of rights is limited in some way, Raz's argument applies against almost all rights, not just a right to autonomy. On the other hand, if Raz's account is limited in the traditional way, it is not clear that his objection to a right to autonomy goes through.

Consider the first horn of this dilemma. Unless Raz's account of rights is limited in some way, his argument applies against almost all (purported) rights, not just a right to autonomy. For, if the duties correlative to many such rights are not limited in some way, they will require the demanding provision of collective goods. Raz's argument would show that no one has a duty derived only from rights grounded in each individual's interests to ensure that individuals can secure adequate health care, for instance. He would have to say some medical care requires institutional change that is too expensive to be guaranteed for all as a matter of right. Nor would people have a duty derived only from rights grounded in each individual's interests to ensure that everyone else's right to free movement or even life is secure. A decent legal system with adequate police forces and a culture of respect are necessary to protect these rights. It may be better to say that people must only do their part in providing standard protections of others' important interests, for instance. For it is not clear that Raz's argument tells against most rights if the correlative duties only require others to do their part in providing standard protections of each individual's interests. At least Raz's account of rights should be limited in some way.

If Raz's account is limited in the traditional way, however, it is not clear that his objection to a right to autonomy goes through. For, on the traditional way of limiting

rights, *not every interest which grounds a duty grounds an unlimited duty*.^{xxxiv} And, Raz's argument just shows that people do not have a right to autonomy that generates unlimited duties.

Suppose, for instance, we modify Raz's analysis of rights slightly as follows: "X has a right' if and only if X can have rights, and, other things being equal, an aspect of X's well-being (his interest) is a sufficient reason for holding some other person(s) to be under a duty" *to provide standard protections of this interest*.^{xxxv} There are, of course, many different ways of filling out the *standard protections* clause in this kind of account. Sometimes people may have to bear very significant burdens to fulfill the duties correlative to others' rights. Sometimes, for instance, people may have to give up their lives to avoid violating others' rights to life. But this kind of account has the resources to limit the demands rights can generate.

On this way of understanding Raz's account there is no problem with a right to autonomy. Raz's argument does not challenge the claim that the importance of an individual's interest in living an autonomous life can ground rights with correlative duties to provide *standard protections* of this interest. Raz worried that an individual's interest in autonomy, no matter how great, could not justify holding "members of the society at large to be duty-bound to him to provide him with the social environment necessary to give him a chance to have an autonomous life."^{xxxvi} Providing standard protection of individuals' autonomy may not require imposing burdensome duties on many others.^{xxxvii} So Raz's argument may provide no objection to a right to autonomy.

Although Raz suggests that one needs many particular options (e.g. the option of monogamous marriage) to be autonomous, this does not follow from his account of

autonomy. After all, Raz allows that a variety of institutional structures may support autonomy.^{xxxviii} It is unfair, but individuals can still be autonomous under institutions allowing monogamous marriages for some and domestic partnerships for others.^{xxxix}

Of course, providing any institutional structure (or other collective goods) does require assigning some duties. Some may even have to bear great burdens to create institutions like marriage.

But it is not like we are starting in the absence of any institutions whatsoever. In some cases, only a few legal changes may be necessary to protect individuals' autonomy against the most common threats. Even if the option of monogamous marriage is required for autonomy, for instance, most societies would only need to make a few legal changes to extend this option universally.

Providing standard protections of everyone's autonomy may not require any more than providing standard protections of everyone's other rights (e.g. to security) even if significant institutional change is required. Providing standard protections of autonomy might require implementing new health or education programs. Providing standard protections of security might require implementing new police or military programs. The police and military programs may be more expensive or difficult to implement than the health and education programs.

The obligations correlative to a right to autonomy might, for instance, be like the obligations correlative to other (e.g. human) rights. On the standard picture:

- (1) governments are the primary addressees of the human rights of their residents, with duties both to respect and to uphold their human rights;
- (2) governments have negative duties to respect the rights of people from other countries;
- (3) individuals have negative responsibilities to respect the human rights of people at home and abroad;
- (4) individuals have responsibilities as voters and citizens to promote human rights in their own country; and
- (5) governments, international

organizations and individuals have back-up responsibilities for the fulfillment of human rights around the world.^{x1}

At least on an account like this, individuals need only refrain from violating rights and do their part in bringing about decent institutional structures that protect rights. So, individuals might just have to refrain from violating others' right to autonomy and vote for autonomy-enabling institutional structures. The idea is not that I have to provide some of the goods necessary for autonomy –e.g. the opportunity to marry (me?!) and you have to provide others. Rather, the idea is that each of us has to do our part in creating the social conditions in which individuals' rights are secure. Normally, these duties would not be very onerous.

Perhaps Raz could accept the conclusion that rights must be limited in some way and even this conception of the duties correlative to rights, but insist that there are further duties grounded in autonomy that are not rights-based. He could argue that there are duties to provide the collective goods necessary to support autonomy that are inconsistent with the rights-based conception of morality. That is, he could insist that there are non-rights-based obligations to provide non-standard protections of autonomy. Perhaps it is the interests of large numbers of people in autonomy, rather than their rights, that grounds duties to maintain social institutions and other collective goods. This would let Raz maintain that there is more to morality than protecting rights. He could also argue that once rights-based duties to protect other interests (e.g. in health) are fulfilled, there are still duties to protect these interests. He only needs to defend the idea that there is a gap between rights-based duties and what morality requires of us to show that there is more to morality than protecting rights.

Even if one of these moves works and Raz's larger polemical aim succeeds, however, the above arguments suggest Raz would have to give up something important. For, if the arguments in this section are correct, it is not clear that autonomy-based accounts of rights fail. And, as noted above, the question of whether there is a right to autonomy is independently important in light of other authors' attempts to ground rights in autonomy (as some of these authors suggest people have a right to whatever they need to secure autonomy).^{xii} Furthermore, this section's arguments give one reason to wonder whether there is *any* duty to provide non-standard protections of autonomy. Reflect again on the vast amount of resources that might be required to protect some individuals' autonomy (or health etc.). One might argue that no one has any duty at all to provide these things for others; people only have a duty to help provide standard protections of others' interests, including others' interests in autonomy.

V. Objections

Perhaps, one could argue, Raz is not objecting to how demanding it is to provide collective goods, but to the mere possibility that rights could require the provision of goods like this. For, he says the provision of collective goods is only potentially demanding, while this provision necessarily impinges on the lives of many members of a society. The objection would just be this: "How is it possible for an individual to have a right to something which will impact the lives of many others?" Perhaps this is what lends intuitive force to Raz's claim that no one has a (personal) right to national self-determination.^{xlii} He might insist that no single individual has a right to something when many others will be impacted by fulfilling the duties correlative to that right, even if none of them would be subject to demanding duties.^{xliii}

Although Raz's example is compelling, that may only be because individuals do not have a basic interest in national-self-determination (despite Raz's claim to the contrary in his paper "National Self-Determination" with Avishai Margalit).^{xliv} It should be at least as intuitive, however, that there are many rights whose provision requires collective goods. We have seen that the right to a health and life require this much, for instance. So do rights to a decent standard of living and physical security. Individuals need a social system that protects these rights. Such a system may impinge on a great number of other people's lives. That is no objection to these (appropriately limited) rights' existence *especially* if it is not too demanding to fulfill them. Everyone is obligated to vote for standard protections against physical violence, for instance, even if such protections only help very small minority groups avoid persecution.

Alternately, one could deny that any rights should be limited and suggest that rights are absolute (though Raz denies this).^{xlv} If saying there is a right to autonomy would require weakening the very notion of a right, one could argue, that is reason to think there is no right to autonomy. If rights only require standard protections, the fact that someone has a right does not generate an all-things-considered duty to protect the right. One might object that this is implausible; it is better to say that there is just an imperfect duty to promote autonomy.^{xlvi}

This suggestion rejects the proposed solution to Raz's dilemma too quickly. Rights might generate all-things-considered duties to do whatever constitutes a standard protection of individuals' interests. So it is not clear that this limit poses a problem for Raz's account of rights, even if Raz's claim that rights are not absolute is wrong.

Even if one does not like proposed method of dealing with Raz's dilemma, that does not justify accepting the unintuitive consequences of maintaining his account of rights. Unless his account is limited in some way, Raz cannot say people have a right to bodily security or health. Unless his account is limited, people do not even have a basic right to life. For, such unlimited rights would be too demanding, generating duties to provide anything and everything a person needs to secure the objects of these rights (including incredibly expensive medical care). So, unless the objector can provide another way of limiting Raz's account (I have no other ideas about how to limit it), his account cannot support even these basic rights. That is much more implausible than the idea that rights are not absolute.

Perhaps one could argue that, even if his account of rights is not limited, Raz's account would yield some rights. Promises, for instance, might generate rights to whatever is necessary to protect their beneficiaries' interest(s) in having the relevant promises fulfilled.

Even the duties promises generate can be excessively demanding, however. Because I am your friend I might promise to do whatever is necessary to protect you from a neighborhood bully who blackens peoples' eyes. That would normally require me to offer such protection even if doing so requires me to take the black eye on your behalf. If I must choose between protecting your eye and the life of my child, however, it may be acceptable for me to break my promise to you. If I must give up everything I have earned to protect you from a blackened eye I may likewise be relieved of my obligation. Fulfilling promises might even require the demanding provision of collective goods.

In any case, this response does not fully appreciate the problem Raz's argument against a right to autonomy raises for his account of rights. The problem is not that there would be no rights on Raz's account. The problem is that, if his account of rights is not limited, many of the things commonly supposed to be rights will not qualify as rights. So, if one is going to reject the proposed way of limiting Raz's account, it is only fair to provide an alternative that does not have this consequence. For, it is better to admit that Raz's argument against a right to autonomy does not go through than to endorse his account without limiting it. Otherwise one will be unable to account for many of the things most commonly supposed to be rights.

Let me put the point another way. If one accepts Raz's argument against a right to autonomy, then one has to provide an alternative way of limiting his account or agree that Raz's account fails to accommodate many of the things most commonly thought to be rights. For, without some way of limiting his account, it is easy to adapt his argument against a right to autonomy so that it applies quite broadly.^{xlvii} It is more plausible to believe there is a right to autonomy, however, than to accept the view that many of the things most commonly thought to be rights are not rights. This last point is especially compelling if, as this paper has argued, it is at least as easy to modify institutions to protect autonomy as it is to modify them to protect security, health, life and so forth. So, unless there is another way of avoiding Raz's dilemma, one should reject his argument against a right to autonomy.

Finally, one might argue that, even if Raz's account of rights is not limited, it can capture all of the rights that matter. One might suggest, for instance, that there should only be rights to components of autonomy, not to autonomy simpliciter. Autonomy is,

after all, a rather complex thing. Furthermore, many existing rights already protect elements of autonomy. So, one might object that an account on which there is a right to autonomy multiplies rights beyond necessity.^{xlviii}

It is not at all clear that Raz's account protects autonomy by protecting its components. First, people have independent interests in having some of the components of autonomy. Everyone has an interest in being able to reason, for instance. People may not have independent interests in other components of autonomy, however. People may, for instance, only have interests in having good options from which to choose if they can choose. Second, it is hard to see how protecting a right to autonomy would be too demanding, while protecting rights to all the components of autonomy would not be. Third, a right to all of the components of autonomy might amount to a right to autonomy if protecting the components protects individuals' autonomy.^{xlix} Finally, even if this strategy works with respect to the right to autonomy, that would not address the heart of the problem Raz's argument against a right to autonomy raises for his account. The heart of the problem is that, unless Raz's account of rights is limited in some way, his argument against a right to autonomy may apply to many of the things standardly characterized as rights. The duties correlative to *many* of the things most commonly considered rights may generate demanding duties to provide collective goods. At least more argument is necessary to explain how the objects of all of the things standardly characterized as rights are protected by rights to the components of the interests underlying them.

Perhaps one could argue that it would not embarrass Raz's argument against a right to autonomy if it applied against many of the things standardly characterized as

rights. For, the fact that there are no (narrowly) correlative duties based on rights does not mean that there are no (broadly) correlative duties that are not based on rights but directly upon the interests the relevant rights themselves are supposed to serve. Even if a duty is too demanding to be narrowly correlative, it might be broadly correlative. There may be duties to protect others' health, for instance, even if no one has a right to these protections.

Once again, it may be true that there are duties to protect interests not based on rights, but this move does not address the problem. There is clearly room for debate about whether some of the things people have claimed are rights *are* genuine rights. It is also permissible for Raz to use the word "rights" in any way he likes. Raz cannot, however, engage in debates about whether there is a right to autonomy in the standard sense of "right" using a different definition that does not even capture the things commonly supposed to be rights. In doing so, he would simply fail to engage with his interlocutor's arguments.

VI. Conclusion

This paper has criticized Raz's important argument against a right to autonomy. Raz suggests that one needs many particular options to secure autonomy. This, however, does not follow from his account. Even if people do need collective goods and these options, in particular, it might be easy to modify many existing societies so that they ensure that people have them. At least it may be just as easy to modify institutions to protect autonomy as it is to modify them to protect security, health, life and so forth. So Raz's argument against a right to autonomy raises an important dilemma for his larger theory. The rights Raz relies upon must be limited in some way if he is to account for

many of the things standardly characterized as rights. On the traditional way of limiting such rights, however, Raz's account supports the conclusion that people have a right to autonomy. So unless those who want to defend Raz's argument against such a right can provide another way of limiting his account, he must accept the incredibly implausible consequence that there are few, if any rights. It is better to reject Raz's argument against a right to autonomy.¹

Acknowledgements:

The author would like to thank Joseph Raz, Alex London, Kieran Oberman, and Dale Dorsey for helpful comments and/or discussion as well as two anonymous referees who have helped her to greatly improve the paper.

- i Assistant Professor, Philosophy Department, 135 Baker Hall, Carnegie Mellon University, Pittsburgh, PA 15213. hassoun@andrew.cmu.edu
- ii Alan Gewirth. 1996. *The Community of Rights*. University of Chicago Press: Chicago. James Griffin. 2006. *Human Rights: The Incomplete Idea* (Working Draft). Oxford, Corpus Christi College.
- iii James Griffin. 2006. *Human Rights: The Incomplete Idea* (Working Draft). Oxford, Corpus Christi College.
- iv For further criticism of this argument see, for instance: Leslie Green. 1988. "Review: Un-American Liberalism: Raz's 'Morality of Freedom'." *The University of Toronto Law Journal*. Vol. 38, No. 3: 317-332. Also see: Jeremy Waldron. 1988-89. "Autonomy and Perfectionism in Raz's *Morality of Freedom*." *Symposium: The Works of Joseph Raz*. *Southern California Law Review*. 62S. esp. 1123-1125.
- For criticism which bears on this argument see, for instance: David McCabe. 2001. "Joseph Raz and the Contextual Argument for Liberal Perfectionism." *Ethics*. Vol. 111, No. 3: 493-521.
- v Onora O'Neill. 2000. *Bounds of Justice*. Cambridge University Press: Cambridge. P. 30.
- vi Martha Nussbaum. 2000. *Women and Human Development: The Capabilities Approach*. Cambridge University Press: Cambridge. Also see: Amartya Sen. 1999. *Development as Freedom*. Anchor Books: New York. p. 72. John Christman. 1989. "Introduction," to *The Inner Citadel: Essays on Autonomy*. John Christman ed. Oxford University Press: Oxford. Gillian Brock. 1998. *Necessary Goods: Our Responsibilities to Meet Others' Needs*. Roman and Littlefield Publishers Inc.: New York.
- vii Joseph Raz. 1986. *The Morality of Freedom*. Clarendon Press: Oxford. p. 373.
- viii See: Thomas E. Hill Jr. 1989. "The Kantian Conception of Autonomy." *The Inner Citadel: Essays on Autonomy*. John Christman Ed. Oxford University Press: Oxford. Also see: Onora O'Neill. 1986. *Faces of Hunger: An Essay on Poverty, Justice and Development*. Allen and Unwin: London.
- ix See: Joseph Raz. 1986. *The Morality of Freedom*. Clarendon Press: Oxford.
- x James Griffin. 2006. *Human Rights: The Incomplete Idea* (Working Draft). Oxford, Corpus Christi College.

xi Although Raz does not say too much about planning in *The Morality of Freedom*, there are many ways of starting to make sense of this idea.

One might, for instance, analyze the ability to make some simple and significant plans on the basis of one's commitments in terms of the ability to make one's motivating commitments generally coherent. Alternately, one might give a decision-theoretic analysis of planning in terms of a consistent preference ordering. Yet another option is to cash out the ability to make some simple and significant plans on the basis of one's commitments in terms of ordering one's ends perhaps by drawing on John Rawls' work on plans of life. See, for instance: John Rawls. 1971. *A Theory of Justice*. Belknap Press: Massachusetts. Also see: Michael Bratman. 2005. "Planning Agency, Autonomous Agency." *New Essays on Personal Autonomy and its Role in Contemporary Moral Philosophy*. James Stacy Taylor ed. Cambridge University Press: Cambridge.

xii James Griffin. 2006. *Human Rights: The Incomplete Idea* (Working Draft). Oxford, Corpus Christi College: Ch. 7.

xiii Ibid.

xiv Joseph Raz. 1998. Joseph Raz. 1986. *The Morality of Freedom*. Clarendon Press: Oxford. p. 375

xv Ibid pp. 198-99.

xvi Ibid p. 247.

xvii Ibid p. 247.

xviii Ibid p.247.

xix Ibid p. 395.

xx Ibid p. 395.

xxi Ibid p. 395.

xxii Ibid p. 395.

xxiii J. Mackie. 1979. "Can There be a Rights-Based Moral Theory?", in J. Aaldron ed. *Theories of Rights*. Oxford, Oxford University Press.

1984. 168-81. Ronald Dworkin. 1978. *Taking Rights Seriously*. Cambridge, Harvard University Press.

xxiv James Griffin. 2006. *Human Rights: The Incomplete Idea* (Working Draft). Oxford, Corpus Christi College.

xxv Ibid p Joseph Raz. 1986. *The Morality of Freedom*. Clarendon Pres: Oxford. p. 166.

xxvi Ibid p. 247.

xxvii Ibid p. 247.

xxviii Joseph Raz. 1986. *The Morality of Freedom*. Clarendon Pres: Oxford. Ch. 8, esp. 245-250. Also see: Joseph Raz. 1988-89. "Facing Up."

Symposium: The Works of Joseph Raz. Southern California Law Review. 62S. esp. 1224.

xxix Ibid p. 247. Also see some of the essays on the relationship between rights-bearers interests and the interests of others in: Joseph Raz.

1995. *Ethics in the Public Domain*. Clarendon Pres: Oxford. e.g. chapter two "Rights and Individual Well-Being".

xxx Joseph Raz. 1986. *The Morality of Freedom*. Clarendon Pres: Oxford. p. 247.

xxxi Ibid p. 247.

xxxii Ibid p. 248.

xxxiii Waldron suggests something like this in: Jeremy Waldron. 1988-89. "Autonomy and Perfectionism in Raz's *Morality of Freedom*."

Symposium: The Works of Joseph Raz. Southern California Law Review. 62S. esp. 1123-1125. He also argues that many human rights are like

this. This point is, however, distinct from the arguments that follow.

xxxiv Joseph Raz. 1986. *The Morality of Freedom*. Clarendon Pres: Oxford. p. 248. Raz gives only two reasons against saying rights need not

be justified by right-holders' interests. The first is that this does not heighten moral sensitivity but, rather, leads to runaway rights-inflation.

Second, he says what makes rights distinctive is that rights are responsive to the interests of the individuals that have them. Ibid p. 249. But

one can accept these arguments and still defend a right to autonomy.

xxxv Ibid p. 166.

xxxvi Joseph Raz. 1998. Joseph Raz. 1986. *The Morality of Freedom*. Clarendon Press: Oxford. p. 247.

xxxvii As Jeremy Waldron and Leslie Green suggest, the provision of *some* collective goods may not be too onerous to be justified by an

individual's interest. Leslie Green. 1988. "Review: Un-American Liberalism: Raz's 'Morality of Freedom'." [*The University of Toronto Law*](#)

[*Journal*](#). Vol. 38, No. 3: 323. Jeremy Waldron. 1988-89. "Autonomy and Perfectionism in Raz's *Morality of Freedom*." *Symposium: The*

Works of Joseph Raz. *Southern California Law Review*. 62S. esp. 1123-1125. David McCabe, on the other hand, argues against the idea that

social goods are necessary for many valuable options and, hence, autonomy. David McCabe. 2001. "Joseph Raz and the Contextual Argument

for Liberal Perfectionism." *Ethics*. Vol. 111, No. 3: 493-521.

xxxviii Sometimes protecting autonomy may not require much (of anyone) at all. To protect the autonomy of an unjustly held political prisoner,

for instance, all that may be required is a political pardon by a single person.

xxxix McCabe's argument might support this move. See: David McCabe. 2001. "Joseph Raz and the Contextual Argument for Liberal

Perfectionism." *Ethics*. Vol. 111, No. 3: 493-521.

xl Nickel, 2005, p. 396. For an expanded discussion of this, see Nickel 1993 and 1995.

xli See, for instance: James Griffin. 2006. *Human Rights: The Incomplete Idea* (Working Draft). Oxford, Corpus Christi College.

xlii Raz has a very different characterization of human rights than individual rights. He believes human rights set limits on sovereignty. Joseph

Raz. 2007. "Human Rights Without Foundations." Oxford Legal Studies Research Paper No. 14/2007. Available online at:

http://papers.ssrn.com/sol13/papers.cfm?abstract_id=999874. The point here, however, is only that the duties correlative to the kinds of moral

rights Raz has in mind in *The Morality of Freedom* might not be too demanding, depending on how the correlative duties are construed.

xliii Perhaps this is similar to Leslie Green's idea that "duties may fail to be justified not because the individual benefits are not weighty

enough, but because they are of the wrong kind. In some cases what is problematic about collective goods is not that the individual's interest is

weak, but that it is conceptually indivisible from that of others.” Leslie Green. 1988. “Review: Un-American Liberalism: Raz's 'Morality of Freedom'.” *The University of Toronto Law Journal*. Vol. 38, No. 3: 324. Jeremy Waldron argues that providing collective goods may not be burdensome. Jeremy Waldron. 1988-89. “Autonomy and Perfectionism in Raz’s *Morality of Freedom*.” *Symposium: The Works of Joseph Raz*. *Southern California Law Review*. 62S. esp. 1123-1125. In commenting on the symposium, Raz responds to Waldron’s arguments but I do not find his response compelling. Waldron’s point is that benefits can offset burdens and determine the overall burdensomeness of duties and the fact that people often do not perceive the duty to provide collective goods as burdensome provides some evidence that such duties are not always objectively burdensome. This suggests that it is not because the provision of collective goods is demanding that no one has a right to this provision (the provision may not be demanding). Joseph Raz. 1988-89. “Facing Up.” *Symposium: The Works of Joseph Raz*. *Southern California Law Review*. 62S. esp. 1223-1225.

^{xliv} Avishai Margalit and Joseph Raz. 1990. “National self-determination.” *Journal of Philosophy*. Vol. LXXXVII, No. 9: 443-447.

^{xliv} Joseph Raz. 1998. Joseph Raz. 1986. *The Morality of Freedom*. Clarendon Press: Oxford. p. 186, p. 255.

^{xlvi} Perhaps Raz could argue that a right to autonomy is not limited even though most rights are limited but that would take argument.

^{xlvi} None of this presumes that the rights-bearer’s interest in autonomy cannot ground very demanding duties; it claims, instead, that many of the things most commonly thought to be rights require collective goods the provision of which is very demanding.

^{xlvi} See: Jeremy Waldron. 1988-89. “Autonomy and Perfectionism in Raz’s *Morality of Freedom*.” *Symposium: The Works of Joseph Raz*. *Southern California Law Review*. 62S. esp. 1123-1125. Also see Raz’s response in the same issue. Joseph Raz. 1988-89. “Facing Up.” *Symposium: The Works of Joseph Raz*. *Southern California Law Review*. 62S. esp. 1223-1225.

^{xlix} The debate between those who endorse a collection of rights that together protect autonomy but do not think these rights amount to an independent right to autonomy and those who believe the collection does amount to a right to autonomy is probably just terminological. See, however: *Ibid*.

1 Admitting this much will not commit him to a completely autonomy-based account of rights. So his theory will remain distinct from other liberal theories based on such rights. Still, Raz's argument could not be used against autonomy-based accounts.